

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

HERMAN BRITT,

Plaintiff,

v.

09-cv-2398 (RJD) (ALC)

ARIES FINANCIAL, LLC., DIVINE  
INTERVENTION INSTITUTE, INC., ANDREW  
MORSE, DOUGLAS KAHAN,

Defendants.

**NOTICE OF MOTION TO COMPEL PRODUCTION OF DOCUMENTS  
AND FOR SPOILATION SANCTIONS**

Pursuant to Federal Rules of Civil Procedure 26 and 37 and the inherent powers of this Court, Plaintiff Herman Britt respectfully moves the Court for an order (a) directing Defendants Aries Financial LLC and Douglas Kahan to provide Plaintiff with signed, sworn responses to Plaintiff's interrogatories pursuant to Federal Rule of Civil Procedure 33(b)(3) and (5); (b) compelling Defendants to produce all responsive documents that have been withheld; (c) precluding Defendants from using in dispositive motions or at trial any documents that have not already been produced or are not produced in response to this motion; (d) directing Defendants to make Aries Financial LLC, Albert London, Lawrence Ramaekers, Carl Gallo, Candice London, and Carol Laxner available for supplemental depositions between 30 and 45 days after production of documents compelled by the Court's order; (e) directing Defendants to identify all responsive documents that have been destroyed and provide an explanation as to how and when all such documents were destroyed; (f) directing Defendants to produce all electronically stored information (ESI), computers and/or computer hard-drives belonging to Aries Financial LLC, Albert London, Lawrence Ramaekers, and Douglas Kahan and all ESI, computers and/or

computer hard-drives used by employees and principals of Aries Financial LLC to a third party vendor for forensic analysis at Defendants' cost; (g) allowing the following adverse inferences with respect to any improperly destroyed documents: 1. that these documents contained information that would show Aries and Kahan knew that Aries loans to homeowners, including Mr. Britt's loan, were consumer loans and intentionally structured the loans in order to circumvent consumer protection laws, and 2. that Aries imposed a mandatory escrow requirement for its loans; (h) awarding Plaintiff reasonable expenses, including attorney's fees, associated with filing this motion; and (i) granting such other and further relief as this Court deems just and proper.

In support of his Motion, Plaintiff submits a Memorandum of Law in Support of Plaintiff's Motion to Compel Production of Documents and for Spoliation Sanctions and the Declaration of Jennifer Light and the exhibits annexed thereto.

Dated: February 7, 2011

/s/ Jennifer Light  
Jennifer Light  
Jennifer Sinton  
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